United Nations S/2005/107

Security Council

Distr.: General
28 February 2005

Original: English

Letter dated 22 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 19 October 2004 (S/2004/845).

The Counter-Terrorism Committee has received the attached third report from Seychelles submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

05-25208 (E) 080405

Annex

Letter dated 11 February 2005 from the Permanent Representative of Seychelles to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Further to your letter dated 18 October 2004, I hereby forward the third report by my Government pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Claude **Morel**
Ambassador
Permanent Representative

Enclosure*

Introduction

The Government of the Republic of Seychelles has the pleasure of submitting this follow up report addressing the areas of concern expressed by the CTC.

This follow up report is attempts to provide details lacking in the supplementary report and adequately address other issues raised.

Seychelles remain firm in its recognition that terrorism remain a challenge to all States and is committed to combat such activities.

Pursuant to the preceding reports this follow up version once again represents the commitments and cooperation of the Government of Seychelles to the implementation of the United Nations Security Council Resolution (UNSCR) 1373 adopted on the 28th September 2001 and other relevant resolutions.

* Annexes are on file with the Secretariat and are available for consultation.

1.1. The CTC notes that the Anti-Terrorism Bill has been enacted and that Seychelles has undertaken to provide the CTC with a copy.

A copy of the Prevention of Terrorism Act is attached for the attention of the CTC.

1.2 Please clarify the enactment of this Bill on S45 B (2) (d) of the Financial Institutions Act.

As regards to section 45(B) (2) (d) of the financial institutions act is an exception to the duty of confidentiality imposed on financial institutions and its officers to disclose any information about the numbered accounts Thus an application has to be made to the court by the Attorney General and this must be for the purpose of an enquiry or trial into or relating to the trafficking of narcotics and dangerous drugs, arms trafficking or money laundering.

1.3 Regarding the use of Internet Banking Privileges, the CTC would appreciate receiving more details about the method followed by the authorities in the Seychelles to ensure that the facilities offered by the one local bank, referred to at page 6 of the supplementary report, cannot be used for the financing of terrorism.

At present there is only one bank offering internet banking which is limited to transferring of local funds from one account to another and ordering of cheque books. No international transfer of funds is permitted. Examiners from the Bank Supervision Division conduct regular on-site examination to that particular bank offering the service.

1.4 The CTC notes that a new piece of legislation is being drafted. The International Corporate Service Providers Act, 2003, with a view of regulating activities of international corporate service providers. The CTC would appreciate receiving a report on the progress of this Act. Furthermore please outline the provisions of this Act which relates to the regulation of International Business Companies and Trusts.

The international corporate providers act has already been enacted and is presently in force in Seychelles. As regards to the regulation of International Business Companies and Trust, the International Corporate Services Providers act provides that a person wishing to provide such services must apply for a license to operate as such to the SIBA and thus it is this authority which is going to vet such applications to find out whether the applicant is a fit and proper person.

Section 8 of the act provides for certain duties imposed on the licensee Such as maintaining such records and documents relating to its business or clients and making sure that clients funds remain separate from that of the licensee. Section 10(1) of the act outline the function of SIBA in relation to the act. Such authority shall monitor the activities of licensees and whenever necessary may make enquiries or examine documents or records of any licensee for the purpose of ensuring that the provisions of this act are complied with. The Authority has the power to require the licensee to produce for examination any books, records or other documents required to be held by the licensee and may also require them to provide any information, documents in relation to the licensee and its business.

The Authority has a duty of confidentiality in relation to information or documents acquired in the performance of its functions in respect of any licensee of affairs of any

licensee or client of the licensee. Section 12(2) lays down the exceptions that may relieve SIBA from the duty of confidentiality.

This includes an order of the court, the consent of a licensee or client, where the information is in public domain or where it is disclosed in statistical form or is conveyed in a manner where the identity of the licensee or client cannot be ascertained.

Section 13(1) provides that SIBA has the power to give directions to the business providing such a service and may even issue guidelines for proper conduct of business by the licensee under this act. It is an offence not to comply with such directions and guidelines. Section 14(1) lays down the powers of the Authority in the event that the licensee carries on its business detrimental to the public interest in contravention of section 6 to 13 or in breach of the regulation or any law. Thus the Authority may give directions to the licensee or may even suspend its license. Section 15(1) lays down the conditions whereby SIBA may revoke a license. Section 3 lays down a code of practice for the licensees whereby every licensee shall at all times know and be able to identify its client and be able to identify the beneficial owners of it client companies.

1.5 **In relation to the regulation of the non-banking financial sector, referred to at page 7 of the supplementary report, please explain how the Ministry of Finance regulates the Seychelles Credit Union (SCU), in light of the relevant regulating measures, as referred at page 7 of the supplementary report.**

The Ministry of Finance had previously regulated the Seychelles Credit Union under the co-operatives act (Cap 50) but has now delegated its powers and duties to the Central Bank by the Delegation of functions (Cooperatives) order, 2004. The Co-operatives act imposes a duty on the Credit union to submit to the Central Bank a monthly report of its activities and also maintaining and rendering of statements of accounts to the Central Bank. Section 12 of the same act provides that the Central bank may give the co-operative directions in writing to be followed by the co-operative in carrying out its objects.

1.6 **The CTC notes that at present there are no legal provisions to authorize or regulate the activities of money remittance or transfer services. The Committee would therefore appreciate receiving an outline of the steps Seychelles intends to take to regulate and/or monitor such non-financial sector.**

At present there are no specific provisions to authorize or regulate the activities of money remittance or transfer services. The main reason may be because Seychelles does not have any non-financial institution offering such a service in Seychelles. It is important to note that the Exchange control act makes it unlawful for any person to sell or transact in foreign currency unless it is authorized to do so and in the Seychelles only financial institutions such as banks are authorized to do so. Therefore any non-financial institution offering such services would be illegal.

The activities of Money Remittance or Transfer services will be monitored and regulated by proposed amendments to the Anti – Money Laundering Act.

1.7 The CTC notes that the Banking Supervision Department of the Central Bank of Seychelles receives reports of suspicious transactions pursuant to the Guidance Notes on Anti-Money Laundering procedures for Seychelles Banks and Financial Institutions, issued by the Central Bank in March 1998 (see page 4 of the first report and page 5 of the supplementary report). The CTC would therefore appreciate receiving the number of suspicious reports (STRs) already received by the Banking Supervisions Department. In addition, please indicate the number of STRs that have led to investigations, prosecutions and/or convictions.

So far, twenty nine Suspicious Transaction Reports (STR) mainly from commercial banks, have been received by the Central Bank of Seychelles, all of which have been referred to the Police for further action in accordance with the requirements of Section 5 (3) of the Anti-Money Laundering Act 1996. All the STR cases forwarded to the Police are still under investigation by them.

1.8 The CTC notes that as of the last report, there are no provisions that enable the freezing of funds that could be used for terrorist acts, and that the only provisions that enable authorities in the Seychelles to freeze funds involve funds that are derived from the proceeds of crime. In this regard, the CTC wishes to point out that unlike in money laundering, in the financing of terrorism the funds intended to be used to finance terrorist acts need not be proceeds of crime. Please indicate, therefore what steps Seychelles intends to take in order to introduce the relevant provisions and regulations into its domestic law implementing subparagraph 1(c) of the Resolution effectively.

The steps that have already been taken in Seychelles to implement sub-paragraph 1(c) of the Resolution regarding freezing of funds that could be used for terrorist act is the enactment of the Prevention of Terrorism act. Section 36(1) of the act provides that upon an ex-parte application, the Judge may issue a restraint order prohibiting any person disposing of, or dealing with any property in respect of property owned or controlled by or on behalf of terrorist groups and this would include funds.

1.9 The CTC notes that there is no specific legislation regulating casinos, and that their activities are regulated/licensed by a licensing authority (see page 7 of the supplementary report). The CTC would like to point out that Casinos could offer an attractive venue for laundering illegal proceeds, as well as a possible source for financing terrorist activities. The CTC would therefore like to receive a detailed description of provisions in place, or under consideration, aimed at regulating and licensing the activities of Casinos. Furthermore, please indicate whether financial reporting obligations also extended to Casinos, and whether the Banking Supervision Department of the Central Bank of the Seychelles, acting as an FIU, is the designated authority to receive such reports.

In order to prevent Casinos offering an attractive venue for laundering illegal proceeds, as well as a possible source for financing terrorist activities, Seychelles is contemplating an amendment to the Exchange control Act in order to have a foreigner to declare the amount of foreign exchange in his possession at the point of entry. There is though no specific legislation dealing with such matters but such activities are regulated and licensed by the Seychelles Licensing Authority. (Extracts of the Licensing Act pertaining to the activities of Casinos are attached).

In January 1998, Casinos and other gambling and betting services were included in the schedule as an activity required to notify the Central Bank under Section 5 (2) of the Anti – Money Laundering Act 1996, of any activity carried out or proposed to be carried out which constitutes or is likely to constitute an offence of money laundering. Any such STR's are to be submitted the Bank Supervision Division but so far, no Casino has submitted any such reports.

10. **In relation to the competence of the national Courts of Seychelles, please elaborate on the situations in which local courts have extraterritorial jurisdiction that are referred to at page 10 of the supplementary report, and provide information on the various pieces of legislation pertaining to these matters (e.g. anti-money laundering, computer misuse act, civil aviation act, hijacking act, the Terrorism act, etc)**

The Courts have extra-territorial Jurisdiction under the following act in the following situations. As regards to the prevention of terrorism act section 27(3) provides that an act or omission committed outside Seychelles which would if committed in Seychelles constitute an offence under this act shall be deemed to have been committed in Seychelles if the person committed the act or omission is:

i) A citizen of Seychelles.
ii) Not a citizen of any country but an ordinary resident in Seychelles.
iii) The act or omission is committed to compel the Government of Seychelles to do or refrain from doing any act
iv) The act or omission is committed against property belonging to the Government of Seychelles outside Seychelles.
v) The person who commits the act or omission is after its commission is present in Seychelles

The Computer Misuse Act 1998 on the other hand provides in its section 6 that an offence under section 3 and section 5 relating to the offence of unauthorized access to computer and the offence of unauthorized modification of computer material and that such offences shall be treated as having been committed in Seychelles as long as the circumstances of the offence show at least one significant link with Seychelles. As for the offence of unauthorized access with criminal intent referred to in section 4 of the act, it shall apply as if anything the accused intended to do or facilitate in any place outside Seychelles which would be an offence to which section 4 applies if it took place in Seychelles were the further offence in question.

As for the Hijacking Act such an act will apply according to Article 1(1) of the Schedule Schedule when a person board an aircraft who unlawfully, by use of force or by threats of any kind, seizes the aircraft or exercises control of it commits the offence of hijacking, whatever his nationality, whatever the state in which the aircraft is registered and whether the aircraft is in Seychelles or else where. But please note that this section shall not apply unless the person seizing or exercising control of the aircraft is a citizen of Seychelles or his act is committed in Seychelles or the aircraft is registered in Seychelles or is used in the military or custom service of Seychelles or in the Service of the police force in Seychelles.

The Civil Aviation Act empowers the minister to pass regulation giving extra-territorial effect to provisions of such regulations. The overseas territories order 1969 which is a

regulation made by the Minister under the act provides that the provisions of this order in so far as they apply to aircraft registered in Seychelles, shall apply to such aircraft wherever they may be and in so far as they apply as aforesaid to other aircraft shall apply to such aircraft when they are within Seychelles. In addition in so far as they prohibit, require or regulate the doing of anything by persons in or by any of the crew of any aircraft registered in Seychelles shall apply to such persons and crew wherever they may be and in so far as they prohibit, require or regulate aforesaid the doing of anything in relation to any aircraft registered in Seychelles by other persons, shall, where such persons are citizens of Seychelles apply to them wherever they may be.

1.11 **In relation to the Seychelles' intentions to conclude additional bilateral treaties, as indicated at page 11 of the supplementary report, please provide the CTC with a progress report on bilateral treaties which Seychelles intends to conclude (with other than Commonwealth countries) on subjects such as extradition, mutual legal assistance, etc.**

Seychelles has concluded Extradition Treaties with the United Kingdom and the Republic of Kenya.

1.12 **The CTC notes that the Seychelles' annexed Extradition Act of 1991 is applicable only to a Commonwealth countries or state with which it has concluded a treaty, as provided for under Part II of the act. The CTC wishes therefore to learn what provisions will govern an extradition request submitted by a non-Commonwealth country that does not have an extradition treaty with Seychelles.**

It is to be noted that an Extradition request submitted by a non- commonwealth country will only be entertained provided that such country has signed an extradition treaty with Seychelles. However Section 31 of the Prevention of Terrorism Act provides that where Seychelles becomes a party to a Counter Terrorism Convention and there is no extradition arrangement between the Government of Seychelles and another state which is a party to that Counter Terrorism Convention, the Minister may by order published in the Gazette treat the Counter Terrorism Convention as a treaty within the meaning of the Extradition Act.

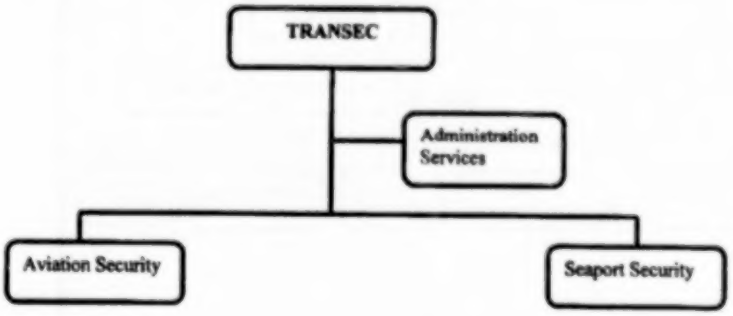
1.13 **Please provide the CTC with a progress report in relation to the review of the structure of the organization charts of those administrations that were still reviewing the way their organizations are structured at the time of the latest report (see page 11 of the supplementary report).**

1.7. ***TRANSPORT SECURITY DIVISION***

The Division is headed by a Director responsible for the followings functions:-

- *Discharges and implements Security standards at the Seychelles International Airport, Domestic Airports.*
- *Complies with the Security requirements of the International Civil Aviation Organisation, Civil Aviation Authority and requirements of the Port Authority.*
- *Trains Airport and Seaport Security Officers.*
- *Assists in the investigation of crime committed in restricted areas of Airports and Seaports.*

Organisation Structure [Transport Security (Transec) Division



Overall responsibility of the Force's Policy with direct command, superintendence, direction and control of the force.

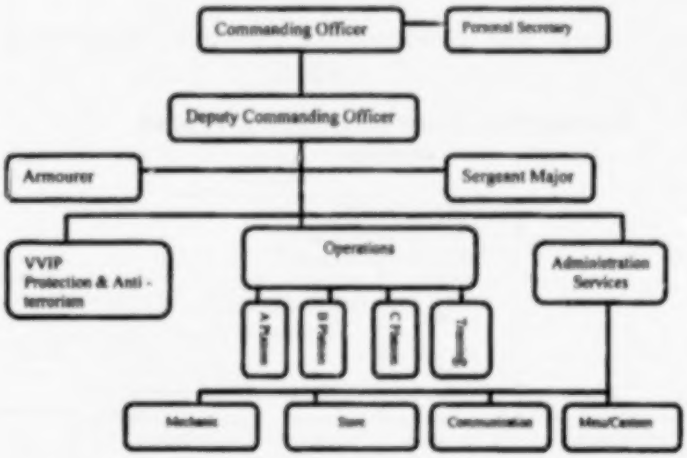
Determines the principles for Organisation of the Police Force and Support Divisions Publication of disciplinary orders/ directives.

Organisation Structure Commissioner's Secretariat

The Division is headed by a Superintendent responsible for the following -

- *Control Public Disorders, riots and restore order*
- *Provides security and counter terrorism*
- *Provides static duties to strategic and vulnerable areas*
- *Assists in national defence, national effort in humanitarian relief operation and Regular Police as and when necessary.*

Organisation Structure Special Support Division

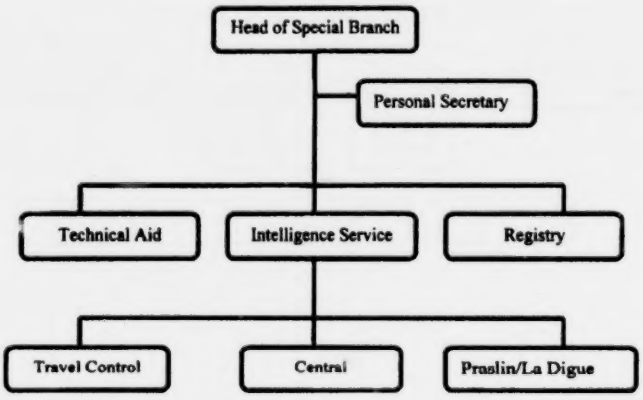


3. SPECIAL BRANCH DIVISION

The Division is headed by an Assistant Superintendent responsible for the following functions:-

- *Maintains security and intelligence service*
- *Prevents and detects activities detrimental to the security of the State*
- *Gathers screens and provides information on all events concerning the security of the State.*

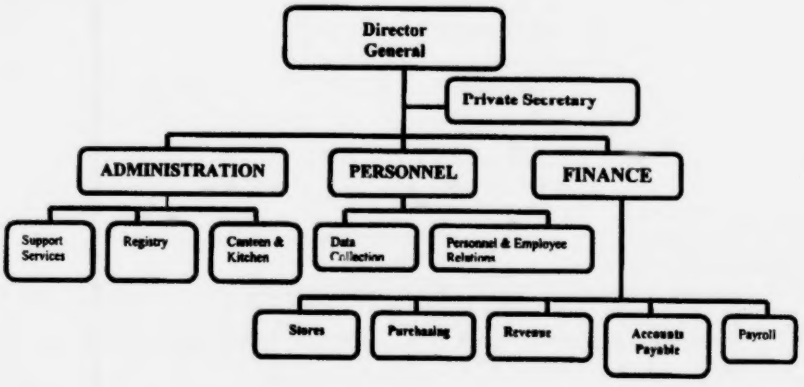
Organisation Structure – Special Branch Division



1.4.3. ***Finance Section***

- *plans, directs and coordinates financial operations;*
- *prepares the Department's budgetary requirements;*
- *oversees the financial operations and controls expenditure;*
- *ensures the timely preparation of financial reports.*

Organisation Structure Administration and Finance Division

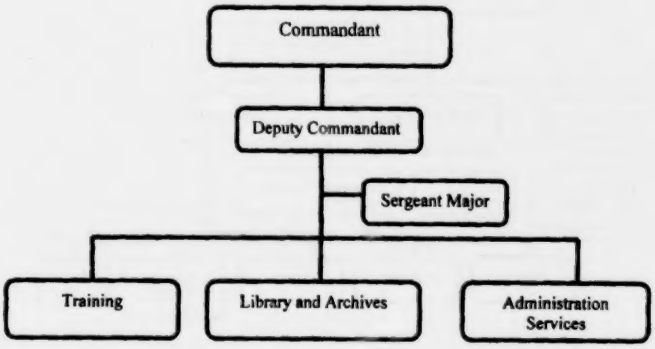


1.5. SEYCHELLES POLICE ACADEMY

The Division is headed by a Superintendent responsible for the following functions:-

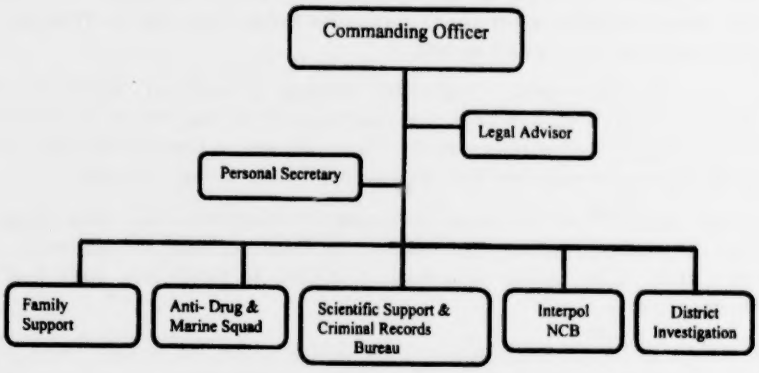
- *Plans, co-ordinates, conducts and implements training programmes for trainees.*
- *Provides upgrading refresher course to member of the force.*
- *Provides remedial training for members of the force.*
- *Conducts training programmes for external agencies*
- *Carries out research to respond to specific/specialized training needs.*
- *Facilitates research, studies and knowledge on Police subjects.*
- *Keeps archival materials of historical value, documents on academic achievements and forensic exhibits.*

Organisation Structure Seychelles Police Academy Division



- *Ensure proper handling of all criminal investigation and completion of all case files.*
- *Provides Administrative and Operational guidance to support Units and District Stations and External Agencies.*
- *Preserves and disposes exhibits.*
- *Keeps and maintains records of criminal and Traffic Offences.*
- *Supports its components of fingerprint, photography, scenes of crimes, forensic laboratory and Anti Drug and Marine Police.*
- *Collects and analyses criminal information and monitors criminal activities.*
- *Acts as focal point for the International Criminal Police Organisation (Interpol)*
- *Exchanges information on Criminal Intelligence with law enforcing agencies.*

Organisation Structure Criminal Investigation Division



1.14 Please outline those offences, including the pieces of legislations in which they are found, that correspond to the offences established by the International Instruments on the Suppression of Terrorism, to which Seychelles is a party.

The piece of legislation which is in accordance with International instruments dealing with the suppression of terrorism is the Prevention of Terrorism Act 2004. The offences found under this act are the following:

- Offence of terrorist act.
- Provision or collection of funds to commit terrorist act
- Use of property for the commission of terrorist act.
- Arrangements for retention or control of terrorist funds.
- Dealing in property owned or controlled by terrorist groups.

- Soliciting and giving of support to terrorist groups or for the commission of terrorist act.
- Harbouring of persons committing terrorist acts.
- Provision of weapons to terrorist groups.
- Recruitment for terrorist groups or terrorist acts.
- Training terrorist groups and persons.
- Promotion and facilitation of terrorism in foreign states.
- Conspiracy to commit offences under this act
- Membership of terrorist groups.
- Arrangement of meetings in support of terrorist groups.
- Participation in the commission of offences under this act.

1.15 The CTC notes that Seychelles does not have specific legislation related to the trade of diamonds, other precious stones and metals such as gold. The CTC would therefore appreciate receiving more details about import/export permits pertaining to the trade in diamonds; in particular whether a certificate of origin is required. In addition, please indicate what steps Seychelles intends to take to regulate the trade of other precious stones and metals.

Seychelles does not have specific legislation relating to trade of diamonds, other precious stones and metals such as gold. The reason for this is that we do not have these natural resources in Seychelles. However if someone wanted to import them they would need an import permit and thus they will need to specify the country of origin.

1.16 Please provide the CTC with a progress report in relation to the three Optional Protocols to the United Nations Convention on Transnational Organized Crime Convention which, as Seychelles indicated, it intends to ratify (see page 9 of the supplementary report).

- PROTOCOL AGAINST THE SMUGGLING OF MIGRANTS BY LAND, SEA AND AIR, SUPPLEMENTING THE UN CONVENTION AGAINST TOC.

Seychelles signed this Protocol on the 22nd July 2002 and ratified it on 22 June 2004. The Protocol entered into force for the Republic, on the 21 July 2004.

- PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UN CONVENTION AGAINST TOC.

Seychelles signed this Protocol on the 22nd July 2002 and ratified it on 22 June 2004. The Protocol entered into force for the Republic, on the 21 July 2004.

- PROTOCOL AGAINST THE MANUFACTURING OF AND TRAFFICKING IN FIREARMS, THEIR PARTS AND COMPONENTS AND AMMUNITION, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANISED CRIME.

Seychelles signed this Protocol on the 22 July 2002. The Protocol has not been ratified.

The "Firearms and Ammunitions Act" of 1 November 1973, updated by Act 31 of 1980; contains the dispositions of the above Protocol.

The Ministry of Foreign Affairs is enclosing a photocopy of its Arrangement of Sections and Parts I and II, which relate directly with the matters regulated under the said Protocol.

1.17 The CTC is aware that Seychelles may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would appreciate receiving a of any such report or questionnaire as part of Seychelles's response to these matters as well as details of any efforts to implement best practice, codes and standards which are relevant to the implementation of the resolution.

There are no additional reports covering the matters on any other anti-terrorism measures outside those in this report, the supplementary report and the initial report.